

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75266 of 2023

Arising Out of PS. Case No.-225 Year-2023 Thana- BAISI District- Purnia

MR. KUNDAN PRASAD Son of Sri Harendra Raut Resident of Bahuarwa
Bherihari Tola, P.S. - Parsauna, District - West Champaran, Bihar - 845453,
Duly Authorized by V Trans (India) Limited, Unit No. - 6, Corporate Park V
N Purav Marg, Chembur Mumbai - 400071

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Sharma, Advocate

For the Opposite Party/s : Mr. Nirmal Kumar Sinha, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL JUDGMENT

Date : 21-12-2023

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The present quashing application has been filed
seeking quashing of the order dated 27.07.2023 passed by the
learned Special Judge, NDPS Act, Purnea in Baisi P.S. Case No.
225 of 2023 whereby the application filed on behalf of the
petitioner under Section 451 of the Cr.P.C. seeking release of the
seized goods, i.e., engineering goods, chemicals, plastic, rubber,
leather, agro-products, auto parts and electrical components on the
vehicle, has been rejected.

3. Learned counsel for the petitioner submits that the
goods, which have been seized in the vehicle in question, belong
to Arbuda Agro Chemicals Private Limited, Crystal Elevator, SRF



Limited and Enarayan Elex India Private Limited. It is further submitted that the owners of the goods are different registered companies. It is next submitted that the owner of the goods had contacted the petitioner for transporting their goods to Purnea. The petitioner, accordingly, had contacted the transport company and hired a vehicle and had loaded the goods of the different owners as recorded hereinabove in the vehicle bearing no. BR-02GC-3288 (Pick-up Yoddha), the goods were to be delivered at Purnea. Learned counsel also submits that the vehicle in question was intercepted by the police and was seized on the allegation that 291 litres of Codeine Syrup kept in 20 cartons were found in the said vehicle. It is further submitted that the vehicle along with the goods and Codeine were seized.

4. Learned counsel for the petitioner submits that the owners of the goods have authorized the petitioner for getting their goods released, accordingly, the petitioner filed an application under Section 451 of the Cr.P.C. seeking release of the seized goods as aforesaid which came to be rejected.

5. Learned counsel for the petitioner submits that what is not disputed rather stands admitted is that the goods which are being sought to be released does not have any connection with the NDPS Act. It is further submitted that the petitioner had booked



the aforesaid goods of the registered companies through a transporter for being delivered to Purnea but the vehicle was intercepted and seized as Codeine was also found in the vehicle but then the petitioner cannot be held responsible for the same nor the petitioner herein nor the companies of which the goods were also seized are made an accused in the present case. It is next submitted that the vehicle in question is liable to be confiscated under Section 60 of the NDPS Act, yet by virtue of Sections 36(c) and 51 of the NDPS Act, the provisions contained in Section 451 or 457(1) of the Cr.P.C. would be applicable as the said provisions of the NDPS Act are in consonance with the provisions of the Cr.P.C., hence, in deserving cases the right of interim custody as provided under Sections 451 or 457(1) of the Cr.P.C. cannot be denied and if the goods which have been seized are allowed to remain in the police custody till the trial is not concluded, it will be rendered waste and thus would be contrary to the decision of the Hon'ble Supreme Court in the case of **Sunderbhai Ambalal Desai vs. State of Gujarat** reported in **(2002)10 SCC 283**.

6. Mr. Nirmal Kumar Sinha, learned A.P.P. for the State has filed a counter affidavit in compliance of the order dated 10.11.2023 on behalf of the Superintendent of Police, Purnea. Learned A.P.P. draws the attention of the Court to paras 10 and 11



of the counter affidavit and submits that at para 10 it has been recorded that the concerned officer has submitted a report detailing the status of the investigation and submitted that he has no objection in releasing the goods in question as per instruction of this Court. Further, at para 11, it has been stated that the goods are properly preserved in Malkhana as per the procedure.

7. Learned counsel for the petitioner, thus, submits that since the investigation of the case is over and the goods which have been seized are not even remotely connected with the NDPS Act and the concerned officer who investigated the case does not have any objection in releasing the goods, as such, the seized goods be released.

8. Considering the submissions made by the learned counsel for the petitioner, the order dated 27.07.2023 passed by the learned Special Judge, NDPS Act, Purnea in Baisi P.S. Case No. 225 of 2023, whereby the application filed on behalf of the petitioner under Section 451 of the Cr.P.C. seeking release of the seized goods has been rejected, is hereby quashed and the goods are directed to be released on the terms and conditions as fixed by the learned Special Judge, NDPS Act, Purnea in Baisi P.S. Case No. 225 of 2023.

9. Accordingly, the present application stands allowed.



10. It is made clear that the investigating officer of the case has stated that the goods so seized are not required for further investigation.

11. The Court expects that the learned trial court in compliance of the present order shall release the goods based on the condition as fixed by the learned Special Judge, NDPS Act, Purnea within fifteen days from the date of receipt/production of a copy of this order.

(Satyavrat Verma, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	22.12.2023
Transmission Date	22.12.2023

